

16.04 SEC Reporting Requirements

Regulations S-K and S-X

Unless exempt by regulation, companies with \$10+ million of assets, 2,000+ shareholders (500+ if nonaccredited investor shareholders), and securities that trade on a national securities exchange or an over-the-counter market must have their securities registered. This is governed by the 1933 Federal Securities Regulations Act. The ongoing reporting requirements are governed by the 1934 Act.

- **Regulation S-K** regulates the disclosure of *nonfinancial-statement* data.
- **Regulation S-X** regulates the disclosure of *financial-statement* data.

Note that Regulations S-K and S-X require less disclosures from **smaller reporting companies (SRCs)**. A company qualifies as an SRC if it has:

- Less than \$250 million in public float (ie, equity held by nonaffiliated investors), or
- Less than \$700 million in public float *and* less than \$100 million in annual revenues.

1. Annual Report (Form 10-K)

Form 10-K provides a comprehensive picture of a company's business, its risks, and its performance, including audited F/S.

a. Business

- Risk factors (not required for SRCs)
- Comments by SEC staff regarding the entity's periodic or current reports that remain unresolved
- Human capital resources

b. Properties

- Disclose only those properties that are material to the company

c. Legal proceedings

d. Mine safety disclosures

e. Information related to:

- The market for the registrant's common equity
- Related stockholder matters
- Issuer purchases of equity securities

f. Management's discussion and analysis (MD&A)

- Principal objectives of MD&A
- Financial condition and results of operations (including material changes in revenue or the relationship between costs and revenues)
- Quantitative and qualitative disclosures about market risk (not required for SRCs)

- Liquidity and capital resources
- Critical accounting estimates
- g. F/S and supplementary data
 - 2 years of balance sheets
 - 3 years of income statements, statements of cash flows, and statements of comprehensive income
 - No supplementary data and only 2 years of F/S required for SRCs
- h. Changes in and disagreements with accountants on accounting and financial disclosures
 - Controls and procedures
 - Management's evaluation of effectiveness of disclosure controls and procedures
 - Management's annual report on internal control over financial reporting
 - Other information – anything required to be reported on Form 8-K during the fourth quarter

The **deadline** for filing the Form 10-K is within:

- **60 days** after the close of the company's fiscal year for **large accelerated filers**—companies with a market value of at least \$700 million public float.
- **75 days** for **accelerated filers**—at least \$75 million public float and \$100 million in annual revenues.
- **90 days** for **nonaccelerated filers**—less than \$75 million public float, or SRC with less than \$700 million in equity and less than \$100 million in annual revenues.

2. Quarterly Report (Form 10-Q)

Like Form 10-K, Form 10-Q requires F/S, management discussion and analysis, quantitative and qualitative disclosures about market risk, and information about controls and procedures. Form 10-Q is required within:

- **40 days** of the end of each of the first three quarters for *accelerated and large accelerated* filers, and
- **45 days** for nonaccelerated filers.

F/S, which are **reviewed** as opposed to audited, will include comparative balance sheets as of the end of the current quarter and the comparable quarter in the preceding year, and operating results and cash flows for the current quarter and the year-to-date for both the current and the preceding years. The 10-Q is filed for the first 3 quarters and then the final quarter is included in the annual 10-K.

While management provides its evaluation as to the effectiveness of internal controls on an annual basis, Form 10-Q requires information about changes in controls over financial reporting that are likely to have a material effect since the previous report.

3. Information Statements (Form 8-K)

Form 8-K is required to be filed within **4 business days** of an event of major significance, such as entering into or terminating a material agreement; bankruptcy; the acquisition or disposal of assets; or a change in directors, CEO or auditor.

	Market Value of Outstanding Securities	Annual Revenues	10-K	10-Q
Large Accelerated Filer	\$700M and up	N/A	60 days	40 days
Accelerated Filer	\$250M – \$700M	\$100M and up	75 days	40 days
Accelerated Filer and SRC	\$75M – \$250M			
Nonaccelerated Filer and SRC	\$75M – \$700M	Under \$100M	90 days	45 days
	Under \$75M	Unlimited		